

## **REMARKS/ARGUMENTS**

### **Introduction**

Receipt of the Final Office Action mailed January 14, 2008, Advisory Action dated March 28, 2008 and Notice of Panel Decision from Pre-Appeal Review dated May 6, 2008 is acknowledged. Prior to the current filing, claims 1-4, 6-9, 11-13 and 15-18 were pending.

With the present Amendment and Response, the limitations of claim 2 are incorporated into independent claim 1. Claim 2 is canceled. Claims 5, 10, 14 and 19 remain canceled. Applicant also introduces new claim 20. Support for this new claim is found in paragraph [00012] in the specification as filed.

No new matter is introduced. Favorable reconsideration in the form of a Notice of Allowance is earnestly solicited.

**I. Rejection of claims 1 - 4, 6 - 12, 15 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Hammer et al. (US 5,501,886) in view of Borodaev et al. (WO 02/078455) with evidence by Hammer et al. (US 4,529,634)**

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-4, 6-12, 15 and 17 as being unpatentable over Hammer et al. '886 in view of Borodaev et al. with evidence by Hammer et al. '634 as stated in the Final Office Action mailed January 14, 2008.

First, Applicant again respectfully submits that Hammer et al. '886 do not actually teach a copolymer comprising "unsaturated carboxylic acids" as recited in claim 1.

Secondly, Applicant respectfully contends that a person of ordinary skill in the art would not have been motivated to substitute the copolymers of Hammer et al. '886 with the hydrophilic homo- or copolymers of Borodaev et al. to produce the cellulosic casing of claim 1, much less a casing having a weight ratio of copolymer to cellulose of from 1:25 to 10:1. The teaching of Borodaev et al. is limited to polyamide casings comprising such a copolymer, whereas in the invention of claim 1, the copolymer is in *admixture* with cellulose hydrate. In fact, Borodaev et al. do not contemplate cellulosic casings or casings containing any cellulosic material. Polyamide films and cellulosic films show completely different properties and are intended for different

purposes. Therefore, a person of ordinary skill in the art thus would not have been motivated to substitute the copolymers of Hammer et al. '886 with the hydrophilic homo- or copolymers of Borodaev et al. in a cellulosic casing as recited in claim 1. As a result, one of ordinary skill could not have formed the food casing of claim 1 much less a food casing having a weight ratio of copolymer to cellulose of from 1:25 to 10:1.

For at least the above reasons, Applicant respectfully submits that claims 1-4, 6-12, 15 and 17 are allowable over the disclosures of Hammer et al. '886, Borodaev et al. and Hammer et al. '634 and, thus, requests that this rejections of these claims be withdrawn.

**II. Rejection of claims 13 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Hammer et al. (US 5,501,886) in view of Borodaev et al. (WO 02/078455) with evidence by Hammer et al. (US 4,529,634) and in view of Crevasse (US 5,215,495)**

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 13 and 16 as being unpatentable over Hammer et al. '886 in view of Borodaev et al. and Crevasse with evidence by Hammer et al. '634.

Claim 13 depends from claim 1, and recites that the casing is shirred to form a shirred stick. Claim 16 depends from claim 1, and recites a sausage comprising the food casing of claim 1. As stated above, Hammer et al. '886, Borodaev et al. and Hammer et al. '634 do not teach or suggest the food casing of claim 1 much less a food casing having a weight ratio of copolymer to cellulose of from 1:25 to 10:1. Applicant respectfully submits that Crevasse does not fulfill the inadequacies of Hammer et al. '886, Borodaev et al. and Hammer et al. '634.

Crevasse discloses a shirred one-piece casing article formed from a fiber-reinforced cellulose casing (col. 2, l. 48 - 53). The unshirred casing has typically a length of 40 to 60 inches, but no more than about 70 inches, i.e. no more than about 1.78 m (col. 3, l. 51 - 56). The article is additionally surrounded by a sleeve (see Fig. 5). Present claim 13 recites a shirred stick obtained by gathering a cellulosic casing having a length of 5 to 100 m. The cellulosic casing contains a weight ratio of copolymer to cellulose of from 1:25 to 10:1. Thus, in effect, Crevasse teaches away from gathering such long casings as those recited in claim 13. Therefore, any combination of the teachings of Hammer et al. '886 with those of Borodaev et al., Hammer et al. '634 and Crevasse does not amount to a teaching or suggestion of the shirred stick of claim 13

much less a food casing having a weight ratio of copolymer to cellulose of from 1:25 to 10:1 as claim 1 currently requires.

For at least the above reasons, Applicants contends that claims 13 and 16 are allowable and, thus, requests that the Examiner withdraw this rejection of these claims.

**III. Rejection of claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Hammer et al. (US 5,501,886) in view of Hammer et al. (US 4,529,634)**

Applicant respectfully submits that claim 1 is patentable over Hammer et al '886 in view of Hammer et al. '634 for the reasons set forth in Section I, namely:

- Hammer et al. '886 fails to teach or suggest the claimed copolymers in admixture with cellulose hydrate as required in claim 1.
- Hammer et al. '886 does not disclose copolymers comprising units of unsaturated carboxylic acids as required in claim 1, but rather copolymers comprising units of esters of unsaturated carboxylic acids.
- Hammer et al. '634 does disclose copolymers comprising units of unsaturated carboxylic acids, but the copolymers do not comprise units of vinylpyrrolidone as required in claim 1.
- Neither Hammer et al. '634 or Hammer et al. '886 disclose a food casing having a weight ratio of copolymer to cellulose of from 1:25 to 10:1

For each of these reasons, alone, Applicant submits that claim 1 is patentable over Hammer et al '886 in view of Hammer et al. '634. As such, Applicant respectfully requests that this rejection of claim 1 be withdrawn.

**IV. Rejection of claim 18 under 35 U.S.C. § 103(a) as being unpatentable over Hammer et al. (US 5,501,886) in view of Borodaev et al. (WO 02/078455) with evidence by Hammer et al. (US 4,529,634)**

The food casing according to claim 18 comprises a copolymer comprising units of vinylpyrrolidone and units of at least one comonomer. The copolymer is in admixture with cellulose hydrate. Hammer et al. '886 also discloses a cellulose-based tubular food casing in

which a copolymer is admixed with the cellulose. The copolymers of Hammer et al. '886 are very specific since they contain, in addition to the units of vinylpyrrolidone, units having ammonium or amine groups (see Formula II and III in col. 3). The comonomer units are thus different from those found in the copolymers listed in present claim 18. For this reason, alone, Applicant respectfully submits that Hammer et al. '886, alone or in combination, does not teach the limitations of claim 18 and, thus, the rejection should be withdrawn.

Furthermore, Borodaev et al. discloses a tubular food casing comprising a polyamide matrix and a hydrophilic component dispersed therein. The casing is permeable for smoke components and water vapor, but still provides oxygen barrier properties. Casings containing any amount of cellulose as recited in claim 18 are not contemplated by Borodaev et al. Therefore, for at least this reason, the teachings of Hammer et al. '886 cannot be combined with that of Borodaev et al. to produce or render obvious a casing as recited in claim 18. As such, a *prima facie* case of obviousness has not been establish and, as a result, Applicant respectfully requests that the Examiner withdraw this rejection of claim 18.

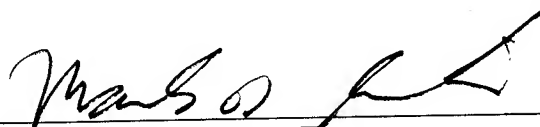
**CONCLUSION**

Applicant believes the application is in condition for allowance. Favorable consideration of the application in the form of a Notice of Allowance is therefore respectfully requested. However, any comments or questions concerning the application can be directed to the undersigned at the telephone number given below.

The requisite fee for a Request for Continued Examination is submitted contemporaneously herewith. Applicant does not believe any extension-of-time fees are due at this, however, the Commissioner is authorized to charge any deficiency in fees or credit any overpayments to Deposit Account No. 09-0528 (Docket #: P179 1130.1).

Respectfully submitted,

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